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A STUDY OF GALATIANS 4: 1-5.

We shall discuss this passage only with reference to its legal aspects. The language in verses 1, 2, pertains to the guardianship of a son according to the provisions of his father's will, and verse 5 treats of adoption. The important words are in verse 2: "under tutors and governors until the time appointed of his father"; [R. V. "guardians and stewards until the term," etc.; Vulgate, "sub tutoribus et actoribus est usque ad praeinitum tempus a patre"; original, "*hupo epitropous esti kai oikonomous archites prodesmias tou patros*"]. In verse 5 the principal words, both in the common and the revised version, are *redeem* and *receive the adoption of sons*; vulgate, "redimeret, ut adoptionem filiorum recipere-mus;" original, "*exagorase (buy from or out of) hina ten huiiothesian apolabomen*." Is Paul referring here to Jewish, Greek or Roman law?

It is clear from the contents of the epistle that the Galatians were chiefly heathen and not Jewish converts. In vi: 12, 13, they are spoken of as being uncircumcised, and v: 2, 6 and 24 could be properly addressed only to those who were not Hebrews. In i: 16, and ii: 9, Paul tells that his mission is to the heathen and not to those of the circumcision. In i: 13 and 14 he speaks of the Jews' religion, an expression that would not be employed in writing to those who were Jews. Paul, therefore, in writing to heathen converts, would not make use of analogies which would be familiar to those only who were acquainted with Jewish law and practices, and it cannot be thought that the Galatians either, as heathens, were thoroughly acquainted with these, or as Christians conformed to them.

We know very little about Jewish law and practices as bearing upon these two points; namely, testamentary guardianship and adoption. What is contained in Num. xxvii: 1-11, Deu. xxi: 16, 17, and the mentioning of isolated cases of those who "set their house in order," do not furnish a commentary for Gal. iv: 1 and 2. As for adoption, there is no undoubted instance of it recorded in the Old Testament. The throwing of the mantle by Elijah upon Elisha, I Kings xix: 19, and a

somewhat similar act recorded in Ruth iii:9, hardly constituted adoption. At all events, it had nothing in common with the legal terminology of Gal. iv, 5. Any sale of children among the Hebrews was into servitude or slavery¹, and had nothing to do with the child's being adopted into the family.

Passing now to Greek law and practices, we find that a father could name in his will one or more guardians, *epitropoi*, for his son. These had control of the person and property of their ward, and were responsible therefor. In the relation they sustained to the ward's property, the guardians were called *kurioi*. The guardianship came to an end when the youth reached his eighteenth year.

Adoption among the Athenians was conducted as follows: The adopter brought the lad at the appointed time to the assembly of the clans (*genoi*), and phratriæ (a body of thirty clans). He brought also an offering, and at the same time took oath that the one to be adopted was an Attic citizen. A vote was taken by the phratriæ, and the adopter enrolled his adopted son among the phratriæ. Later, at the time of the annual election, the adopted son was again enrolled in the book of the community. The act of the adopter was called *eispoieisthai*, *poieisthai*, *thesthai huion*, *huiosai*. The adopter was *poiëtos pater* or *thees*. We have gone thus into details to show that there was in this act no trace of a purchase of the son, that the word *exagorazo* could not at all be made use of here.

Let us now turn our attention to Roman law and practices. A Roman father could name in his will a guardian or guardians² (*tutores*) for his son. The guardian had control both of the person and property of his ward. If the testamentary guardian was an honest man, but not a good business manager, there might be associated with him a curator or curators³ (*curatores*). These corresponded to the *oikonomoi* mentioned in verse 2. Moreover the father could specify in his will a certain time, after which the guardianship over his son should cease, "until the time appointed of his father." In Justinian it is said, under testamentary guardianship: *Ad certum tempus, seu ex certo tempore, vel sub condicione, vel ante heredis institutionem posse dari tutorem non dubitatur*⁴. Again it is declared that testamentary guardianships (*tutores*), given for a certain time, lay down their office at the end of that time⁵. More-

¹ Ex. 21: 2, 7. ² Just. I, 13: 3. ³ Just. I, 23: 5. ⁴ I, 14: 3. ⁵ I, 22: 5.

over, we find in the Digest, under *De testamentaria tutela*, that a guardian might be appointed from a certain time, up to a certain time, on certain conditions or up to the fulfillment of certain conditions¹. Likewise a boy, when he reached puberty, *i. e.* fourteen years, was freed from guardianship, but it was customary to give him a curator or curators until he attained his twenty-fifth year. These curators assisted him in managing his property, to see that he was not defrauded, but they had no control over his person. These curators, although properly appointed by the magistrates and not by will, yet if named in a will they were confirmed by the praetor or governor of a province².

Before the time of Justinian, the common mode of adoption, among the Romans, of a male who was not his own master (*alieni juris*) consisted of two distinct acts. The first of these was a triple fictitious sale, and the second a friendly lawsuit. The object of the sale was, that the father's power, *patria potestas*, over his son might be annulled. According to the XII Tables, a son sold by his father and freed by his new master, came under his father's power again, and it was only after a third sale by the father that he lost all possible jurisdiction over his son. The object of the lawsuit was that the adopter might acquire a father's power over the one to be adopted. The principle that lay at the foundation of adoption was the *patria potestas* or the power of the head of the family over its members. It was this power that gave a father the right to sell his children. We shall have occasion to revert to this.

The fictitious sale (*mancipium*) was in the presence of five witnesses and a balance-holder. The purchaser took hold of the lad and claimed him as having been purchased by him³, at the same time striking the scales with a piece of money (*as*), and then giving it to the father as the purchase price. The purchaser now freed the boy, for he was not his adopted son, but his chattel. As soon as the boy had been freed, the father's power over him again held good. The sale and the manumission were repeated. A third time the boy was sold by his father, and the purchaser mancipated him again to his father. Since, however, the father had already sold his son

¹ Digest Ulp., 31; Lit. 2: 8.

² Just. I, 23: 1.

³ *Isque mihi emptus esto*, Gaius I: 119.

three times, his power over him was not that of a father over his son, but of an owner over his property, the *patria potestas* had been annulled. The adopter now brought suit (*vindicatio*) before the praetor against the father, claiming the lad as his son¹. If no counter-claim was made, the praetor decided in favor of the adopter², and the adopted son enjoyed all the rights of natural children³, and was as a stranger to his natural parents⁴.

Thus we find that the language used by Paul in speaking of guardianship and adoption, is strictly in conformity with Roman law and practices. The question that remains to be answered is, why would the Galatians be able to understand an analogy taken from Roman law? In the first place, we reply, that the intercourse between Italy and Asia Minor was most active and constant. Teachers, physicians, and tradesmen went in great numbers thence to Italy, and after having acquired wealth, returned to their native towns. When Galatia was made a Roman province, Latin and Greek were the languages used in business⁵. Galatia was especially favored by Augustus. Its king, Amyntas, was the one upon whom Augustus relied most for keeping Asia Minor in subjection. The Galatians were considered to be the best of the Asiatic soldiers, and after the death of Amyntas, when Galatia became a Roman province, Augustus incorporated its soldiers, who had been drilled and trained according to Roman discipline, into his army⁶. In Ancyra, the capital of Galatia, there was a temple dedicated to Augustus and Rome. In this temple the inhabitants placed marble tablets upon which were engraved the deeds of Augustus, copied from bronze tablets in Rome. All of this goes to show that the Galatians must have been well acquainted with Roman customs and practices, and with those laws and regulations that pertained to acts so important as guardianship and adoption.

In the second place we have good reason to believe that there prevailed among the Galatians, in common with the Romans, the principle of *patria potestas*, which, as has been said, lay at the foundation of the laws and method of adoption as already explained.

¹ Gaius 1: 117, 119, 132. ² Gaius 1: 134; 2: 24. ³ Gaius 2: 136. ⁴ Gaius 2: 137.

⁵ Mommsen, Provinces of the Rom. Emp., 1 ch., 8.

⁶ Mommsen, Prov. of Rom. Emp. 1 ch., 8.

The Galatians, called also Gallograeci, were the Gauls who in their march westward settled in Asia Minor. They were of the same race as the Gauls of Western Europe. That the Gauls of Germany had *patria potestas* we know from Cæsar¹. His words are: *Viri in uxores, sicut in liberos vitæ necisque habent potestatem*. We should also expect that the same principle would prevail among the Galatians. Again Gaius² says "the *patria potestas* is a right peculiar to Roman citizens," but he adds, "it does not escape my notice that the Galatians believe that their children are in the power of their parents." This is a remarkable statement, for the Roman jurists maintained that the *patria potestas* was peculiar to the Romans, and these words in Gaius are the only passage among their extant writings that admits in the least degree of its existence among any other people. We know nothing about the laws and practices of the Galatians, as pertaining to guardianship and adoption. They may have been the same, at this time, as those of the Romans. The difference could not have been very great, since the principle of *patria potestas* ruled among both peoples.

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¹ Bel. Gal. 6 : 19.

² Gaius 1 : 55.